

REMARKS

Reconsideration and withdrawal of the rejection with respect to all the claims now in the application (i.e. claims 9-22) are respectfully requested in view of the foregoing amendments and the following remarks.

With respect to the Section 112 rejection of the claims, the Examiner's contention that FIG. 9c does not necessarily support the claimed exact "ninety degree" angle of the sealing surface 160, Applicant respectfully disagrees, but has redefined the angle as "substantially" ninety degrees to resolve this objection.

While Applicant also disagrees with the Examiner's contention that "resilient" is not synonymous with "compliant", claims 9, 16 and 17 have been amended as suggested by the Examiner to substitute "resilient" with "compliant"; support for which may be found at page 4, line 6 of the specification and Abstract, last 6 lines. As can be seen in the dictionary definition enclosed herewith, "compliant" is defined to be "yielding" (see Exhibit A). At the heart of Applicant's invention is a sealing and severing surface that is "compliant" or "yielding" and deforms or "yields", upon contact with a heated flat bar in such a way so as to remain in constant contact with the heated flat bar producing a continuous seal of high integrity along the contact surface between the sealing surface and the bar (page 4, lines 4-9). This feature is neither taught nor suggested by the prior art.

To the contrary, Fiesser, et al., U.S. Patent No. 5,475,964 discloses an upper and lower sealing bar which come into contact with one another without any disclosure of one surface being compliant or yielding with respect to another surface. (See, Col. 7, lines 24-45; Fig. 2). Similarly, Merritt, et al. U.S. Patent No. 3,094,823 discloses a sealing blade 55 moving into engagement with a block 56, again without any suggestion of one of the members being compliant or yielding with respect to another. (See, Col. 2, lines 59-64; Fig. 1).

Regarding the Examiner's remarks on pages 6-7 of the Office Action, Applicant respectfully disagrees that the term "sharp contoured compliant sealing surface" as described in the application can be interpreted to mean spring-loading of the entire element. As set forth in the application, sealing surface 142 is specifically defined as being compliant, not its mounting. This is evident from a fair reading of the specification in relation to the context of the prior art shown in FIGS. 2 and 3 and the claimed invention in FIGS 9a-9c where no spring loading of the sealing element is shown. Moreover, Applicant respectfully submits that the Examiner is impermissibly reading limitations of compliancy of the sealing surface material into the prior art. Indeed, the benefits of such a compliant sealing surface are not disclosed in any of the references of record.

Applicant further submits that Runo, et al., U.S. Patent No. 3,538,676 does not disclose an inverting mechanism. In fact, what the Examiner alleges to be an inverting mechanism 50 is indeed a forming dye for packaging (See Col. 4, line 68 - Col. 5, line 49). It does not have the adaptability of Applicant's inverting means which adjusts the orientation of the opening of the folded film to provide accessibility from above or the side, as currently claimed in claims 12 and 19.

Applicant requests a personal interview with the Examiner prior to the institution of a further Office Action in this case. Applicant's attorney will shortly contact the Examiner to arrange for a personal interview.

Applicant hereby requests a three month extension of time in which to respond to the outstanding Office Action. Credit Card payment form no. PTO-2038 in the amount of \$475.00 is enclosed . Any fee deficiency or overpayment may be charged or credited to applicant's Deposit Account No. 07-0130.

In view of the foregoing, it is respectfully submitted that all claims now pending in the application (i.e., claims 9-22) are allowable over the art. Accordingly, withdrawal of the claim rejections and allowance of the claims are respectfully solicited.

Respectfully submitted,

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Enclosure: Exhibit A,
PTO-2038 (Credit Card Payment Form for three-month extension)
Return postcard

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 23, 2004.

By: 
Thomas M. Galgano, Esq.

Dated: February 23, 2004